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The Oldest 8 Page
Evening Paper Published
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Subscription 75c. a month.

Vol. IV. No. 686.

HONOLULU, H. I., MONDAY, AUGUST 16, 1897.

Price 5 CENTS.

THE EVENING BULLETIN.

Published every day except Sunday at
210 King Street, Honolulu, H. I.
SUBSCRIPTION RATES.
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PROCEEDS ON HER VOYAGE

THE CHINA MAILS WITH HER CLAIM UNPREJUDICED.

Mr. Macfarlane Takes the Coptic
for San Francisco and Talks
Before Leaving.

When the steamship Coptic was within an hour of sailing for San Francisco yesterday, and the steamship China announced to sail for Yokohama a few hours later, a BULLETIN representative found Geo. W. Macfarlane in the bustle of packing his traps, at the Snow cottage in the Hawaiian hotel grounds. Mr. Macfarlane was asked what arrangement had been made under which the China was proceeding on her voyage before the matter of her registry was determined. In answer he selected a document from a loose packet and handed it to the questioner.

The writing was a certificate from the Collector General of Customs, to supplement an extension of the sea letter of Consul Hopkins in London, and was at first refused by the Executive but conceded at a late hour on Saturday. It reads as follows and its purport is to allow the China to complete her round voyage without prejudice to Mr. Macfarlane's claim for a Hawaiian register now pending in the Circuit Court:

"Office of Collector General of Customs,
Honolulu, August 14, 1897.

"To whom it may concern:
"I, James B. Castle, Collector General of Customs of the Republic of Hawaii, hereby certify and make known that in respect of the steamship China, now in the port of Honolulu, and about to proceed on her voyage to Yokohama, Hongkong and wayports, and return to San Francisco, application has been made in this office by George W. Macfarlane, claiming to be the owner of said steamship, for a Hawaiian register, and that proceedings are pending in the Hawaiian courts to determine his right to such registry.

"In witness whereof I have hereunto set my hand and seal the above named day.

"JAMES B. CASTLE,
Collector General, etc."

Mr. Macfarlane also showed the reporter the following letter, which he had addressed to Charles T. Wilder, Hawaiian Consul General, at San Francisco on August 4:

"In regard to the transfer to me of the steamship China and the steamship Baracouta, I desire to say that the facts are as follows:

"About a year ago the subject of transfer to me was under discussion by Mr. Schwerin, yourself and myself. About the 8th day of May last, I being in San Francisco, it was finally decided that the transfer should be made, Mr. Huntington having arrived from the East, and that application should be made for Hawaiian registry for said vessels. The ships were both held by an English corporation and it was necessary to take steps to disincorporate said corporation before the title could be conveyed to me. I proceeded at once to London, stopping in New York to discuss the details with Mr. Tweed, counsel for the Pacific Mail Steamship Co. I then went to London, where the necessary steps were commenced to disincorporate the English corporation and carry out the transfer which had been agreed upon. There was no break in the proceedings and the matter was finally completed on the 2nd day of July. A provisional register was issued by Mr. Manley Hopkins prior to the receipt of telegraphic instructions to register no foreign vessels."

Mr. Macfarlane further stated that, with a knowledge of the time and order of the different steps in the transaction, Minister Hatch at Washington wrote to the Minister of Foreign Affairs, earnestly recommending that a Hawaiian register should be granted to the steamship China on her arrival at Honolulu. Mr. Hatch in that letter expressed the opinion that Senator Frye, chairman of the committee of foreign relations, would have no objections to the act when he knew all the circumstances.

Talking along amidst his packing, but interrupted by several business and friendly calls, Mr. Macfarlane said:

"When I arrived here I knew what rights I had and would not abate one iota of them. I would like to say that I appreciate the disposition shown by President Dole from the outset, in being willing to recognize the steps that had been taken as lawful and regular. Mr. Cooper came round at last to the granting of the extension of the London sea letter without prejudice to our case.

"Captain Seabury joins me in expressing appreciation of the evident desire of President Dole to help Mr. Cooper out of his dilemma and allow the vessel to get her register. The legal proceedings will give the Minister of Foreign Affairs a fuller opportunity of explaining the matter to the United States Government.

"When the vessel arrived here Mr. Cooper wanted the flag hauled down, as he thought Consul General Wilder had granted the register in the face of instructions, but the fact that the provisional register had been granted in London put a different complexion on the matter. Captain Seabury said he should like to see Mr. Cooper come on deck to pull down the flag.

"Notwithstanding the differences with Mr. Cooper at the beginning, however, he showed at last every disposition to meet us fairly, finally instructing Mr. Castle to sign that certificate.

"The impression seemed to have got around on Saturday that I had taken the British oath of allegiance before the late Commissioner Hawes, thus forfeiting my rights as a Hawaiian citizen, but on my cross-examination by Mr. Cooper in court the rumor was totally disproved.

"Our attorney advised us that until we got our case into court, and our testimony in, and a certificate from the Collector General, saying that our case was now pending in court to determine my rights to Hawaiian registry, we could not accept an extension of the sea letter from the Minister of Foreign Affairs, as he had claimed at the Executive meeting that the document was no longer valid after the ship's arrival here. We had by law applied to the Collector General for a register and he had to give his reasons for not granting a certificate.

"If annexation should take place and an American register thereby come to the steamship China, it will be a benefit to American citizens. Whereas in the case of the Hawaiian register lately granted to a sailing vessel of Rithet's the benefit, in a like contingency, would be altogether to British subjects.

"It is only eleven months since I was granted a Hawaiian register for the steamship Aztec, and the conditions were exactly similar to those in the case of the China."

When Mr. Macfarlane had buckled the last strap and stood up to bid goodby to those in the room, he remarked in a tone of triumph—not to say "gusto"—that with the usual good time of the Coptic he should land at San Francisco in thirty days from his leaving London. Pretty good traveling, that—to cross the Atlantic, then the American continent, and make the round trip between San Francisco and Honolulu, remaining here four days, all inside of a month.

Rev. Dr. Cruzan's Call.

Rev. Dr. Cruzan, editor of the Pacific, will become the pastor of the North Berkeley Congregational Church on the 20th inst. and Rev. J. C. Robins will close his ministry of the same church on the 18th inst. Rev. W. W. Ferrier, formerly of Pacific Grove, has been appointed assistant editor of the Pacific, the Congregational organ.

THE REGISTRY QUESTION

CASE OF THE CHINA FAR FROM EXCEPTIONAL.

Mr. Macfarlane's Hawaiian Citizen-
ship Attacked—Progress of the
Mandamus Hearing.

Owing to the projected departure of Captain Seabury the master and George W. Macfarlane, the nominal owner, of the steamship China, their testimony was taken on Saturday before Judge Perry, at Circuit Court chambers, in advance of the return day of the writ of mandamus to compel the Collector General to grant a Hawaiian register to that vessel.

Captain Seabury gave a sort of history of the China; he said her value stated in San Francisco at about \$200,000; had stated outside she cost \$740,000, but she would not be worth her actual value to one outside the company.

Mr. Macfarlane said he was whole owner of the China, and related facts about bill of sale and mortgage already known. The mortgage was made to secure the Pacific Mail's interests in the ship; had given no charter, and made no engagement to reconvey the vessel; when he took out provisional register was not aware that instructions had been sent to the London consul to grant no more Hawaiian registers; his father was originally British; did not know if he had naturalized as an American, as he died when witness was a small boy; had received no letters of denization, nor ever taken an oath of allegiance to any government of Hawaii; had followed legal advice in taking a letter of indemnity from Mr. Huntington; received no consideration beyond perhaps £50, for which he had not asked, to become the registered owner; would receive no profits and share no losses in running the China.

Minister Cooper said there would be four points in the answer of the respondent. He would raise the question of the jurisdiction of the Court, the question of whether or not it lies in the discretion of the Collector General to grant a register, the question of the nationality of Colonel Macfarlane and the question of the ownership of the China.

The regular hearing on the writ began before Judge Perry at 10:30 today. Following is a condensed report of the evidence:

P. C. Jones—Firm of C. Brewer & Co. was registered owner of bark Foohing Suey, but held no actual interest in the vessel; had eighth interest in bark R. P. Rithet; could only testify exactly of Foohing Suey, registry of which was given when he was manager of the firm; familiar with term "registered owner" but not with "flag owner;" familiar with principle of having persons not owning in vessels being their registered owners; the way we did with the Foohing Suey was to make a charter for a term of 99 years.

Cross-examined—Do not remember what oath was taken; do not remember whether I gave the officer to understand that I was no more than the nominal owner.

T. Bain Walker—Am British Vice Consul; on August 13 received communication from H. Hackfeld & Co., agents of the China, and answered it.

Mr. Cooper objected the letters were not material, as the Minister of Foreign Affairs had not written the letter required in the case. The Minister of Foreign Affairs could not recognize letters passing between the agents and the consul. Objection over-ruled on Mr. Hartwell's argument that it was the statutory duty of the Minister to write such a letter.

Witness—The letter asked if there was any legal impediment to granting a Hawaiian register to the China; answered that I was not aware of any legal impediment; understood I was present at the conference with the Cabinet on Thursday at the request of the Foreign Office.

Mr. Cooper said this was a mistake, and Mr. Walker asked leave, smilingly, to apologize for his intrusion on that occasion. A clerk had brought him a telephone message that he was requested to attend. Mr. Cooper said there was no occasion to apologize. Mr. Hartwell said Mr. Walker was present when Mr. Macfarlane and himself arrived at the Foreign Office. Mr. Cooper said President Dole possibly had invited Mr. Walker, and he himself was glad to see him there.

Witness—It was not stated in my hearing what objections the Government had to the register; heard the Minister of Foreign Affairs allude to assurances given to United States Government that no more foreign vessels would be registered; the Minister did not state any reasons to me.

Cross examined—Received no communication from Minister of Foreign Affairs regarding application for register.

Direct examination as witness for respondent—Made a search of the records of the British Legation; found that Mr. Macfarlane's birth had been recorded, also the birth of his parents; the register I have always considered as prima facie evidence of British nationality; the law of British nationality is that a person born of British parents in a foreign country, unless the parents or himself have renounced allegiance, is of British nationality; there may be a question of double nationality; if he does not renounce it, he may claim the right of a British subject.

Q.—Would the British consul receive as a British subject a man born of British parentage in this country?

A.—Yes.

John Ena—I am flag owner of four foreign-built vessels of Hawaiian registry—the ships John Ena and Hawaiian Isles, the steamer Alexander and the ship Honolulu; had money in the John Ena and Hawaiian Isles; these two vessels are actually owned in foreign corporations; they made a bill of sale to me; I do not hold any interest now, having sold my shares; made a declaration that I was the sole owner, having taken a bill of sale but paying no money; am familiar with the expression, "flag owner;" put no money in the Alexander or the Honolulu; consented to be the registered owner; practised no subterfuge on the customs officers; made a clear statement and they understood me; the value in the bill of sale of the John Ena was one dollar, but the actual value about \$100,000; do not know whether they understood that I did not own in the vessels.

Cross-examined—I took the usual oath.

W. F. Allen—Was Collector General of Customs twenty years nine months ending in 1884; was familiar with registration of Hawaiian vessels by flag owners—"paper owners" I called them; that was a common practice—a good many whaling vessels and quite a number of coasters; practise not discontinued in my time; have learned of its being continued; party making a register would bring a bill of sale, and we accept that bill of sale as evidence that he was the owner; sometimes I knew that the consideration was not paid but not always; I would make a fair valuation for the purpose of taxation; a common practice was to make a long charter.

Cross-examined—Threw the responsibility on the person making the application without going behind the returns, after ascertaining through the Foreign Office that there was no legal impediment; never inquired whether he had given a private charter, it would be going beyond my authority.

Redirect—I consider that a meagre bill of sale (the China's exhibited) for so large a vessel; there is an absence of details such as masts, rigging, anchors,

etc.; am not aware what British form is.

To Mr. Cooper—In case of a mortgage I would have communicated with the Cabinet at once.

F. B. McStocker, Deputy Collector General of Customs, testified of proceedings in which he had taken part regarding the China's application. Received the papers when protested stamp duty of \$2000 was deposited; had got an answer to notice given the Foreign Office, saying it was not proposed to grant any more registers; so far as he understood the Aztec was registered under similar forms to those of the China's application; think the bill of sale according to British form, some details of matter absent; personally was not satisfied with forms in Aztec matter, and referred it to Collector General; in three or four hours received instructions to go ahead; nothing in appearance of China's bill of sale that makes it unsatisfactory; told Macfarlane his bond would be \$2000, but would not accept it as that would have made finality; allowed him to leave it in the office, and it is there now; Mr. Lyle surveyed the China; I do not know any difference in form between the cases of the Aztec and the China; these was not a great deal of hitching and hauling about the Aztec, only about the matter of stamps; Mr. Thurston acted for Mr. Macfarlane in the Aztec's case; until further inquiry is made I cannot state if there is any legal impediment to the China's registry.

Cross-examined—Received a letter from Macfarlane formally demanding registry; had not refused registry at that time; answered that "not being satisfied that no legal impediment existed" we declined to grant the register.

Recess from 11:50 to 1:30. Collector General Castle was to be the next witness.

Two Small Fires.

The fire department was called out twice since the last issue of this paper. The first alarm at midnight on Saturday was for a cottage on Queen street belonging to Russian Frank's establishment, the shell of which was saved and the adjoining buildings protected by the efforts of the department.

The second alarm was sent in shortly after noon yesterday, the fire being located on Liliha street, near School, in a cottage occupied by Captain Thompson of the Ke-ahonui. With its contents it was entirely destroyed. Captain Thompson lost all his personal effects valued at about \$300.

James Bennett, commonly known as Boatwain Ben, was charged with larceny in the first degree in the police court today and bail fixed at \$500. His trial is set for the 19th. He is accused of entering the room of D. G. Camarinos and stealing \$200 from the pocket of his pantaloons while he slept.

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